UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,539	12/29/1999	BALWINDER S. SAMRA	17207-00003	2363

7590 11/06/2003		EXAMINER
JOHN S BEULICK		BOYCE, ANDRE D
ARMSTRONG TEASDALE LLP		

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ONE METROPOLITAN SQUARE SUITE 2600	3623	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N . 09/474,539	Applicant(s) SAMRA ET AL.
	Examin r Andre Boyce	Art Unit 3623

-- The MAILING DATE of this communication appears n the cover sheet with the c rrespondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 August 2003</u> .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-9,11 and 13-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-9,11 and 13-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   This Final office action is in response to Applicant's amendment filed August 22,

2003. Claims 1, 11, 22, 23, 25, and 26 have been amended. Claims 1-9, 11, and

13-26 are pending.

2.   The previously pending objections to claims 6, 17, 21, and 24 have been

withdrawn.

3.   Applicant's arguments filed August 22, 2003 have been fully considered but they

are not persuasive.

Claim Rejections - 35 USC § 103

4.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

5.   Claims 1-9, 11, 13-21 and 24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Lee et al (US 2002/0072951), in view of Thearling (USPN

6,240,411).

As per claim 1, Lee et al disclose a method of analyzing the success of a

marketing campaign by using a targeting engine, campaign results and an original

campaign database (campaign analysis including determining the effectiveness of a

campaign, see ¶ 0029 and 0033), comprising embedding within the targeting engine

a plurality of analytical models (marketing analyses models, see ¶ 0030) including

marketing (customer/product analyses, see ¶ 0031 and 0032) and risk models

(targeting most valuable customers, i.e., ones of low risk and high return, see ¶

0039); combining the models embedded within the targeting engine to derive a list of

user defined dimensions (users are able to analyze and present data in a variety of

ways based upon which pre-built marketing analyses are used, see ¶ 0029) for

generating the marketing campaign, the user defined dimensions include marketing

defined dimensions (customer/product analysis) and risk defined dimensions

(customer profitability and value), profiling results of the marketing campaign against

the marketing defined dimensions and the risk defined dimensions (campaign

analysis, see ¶ 0033). Lee et al does not explicitly disclose using the targeting

engine to determine a sequential order for combining the models; combining the

models embedded within the targeting engine in the determined sequential order,

and assigning a score to the results of the marketing campaign based on the

marketing defined dimensions and risk defined dimensions. Thearling discloses the

campaign manager automatically selecting the order of the models for analysis (see

figure 11 and column 13, lines 38-41). Thearling also discloses scoring the model

used to analyze the campaign, thereby scoring the campaign (i.e, likelihood a

customer will provide repeat business, see column 9, lines 48-52). Both Lee et al

and Thearling are concerned with effective campaign management and analysis,

therefore it would have been obvious to one having ordinary skill in the art at the

time the invention was made to include assigning a score to the campaign analysis

in Lee et al, as seen in Thearling, thus allowing analysts to determine the success of

the marketing campaign via comparison to other campaign scores and/or a scoring

baseline, thereby increasing the analytical robustness of the method.

As per claim 2, Lee et al disclose comparing accounts targeted by the marketing

campaign against those accounts not targeted (segmented targets, see ¶ 0078).

As per claim 3, Lee et al disclose selecting the differences between targeted and

non-targeted accounts (targets based on pre-configured queries, see ¶ 0078).

As per claim 4, Lee et al disclose ensuring that the marketing campaign is

reaching a targeted population base (tailor campaigns to better target the most

valuable customer, see ¶ 0039).

As per claim 5, Lee et al disclose capturing graphically, clusters of data built

using statistical procedures (chart, see ¶ 0053).

As per claim 6, Lee et al disclose using the user defined dimensions and the

campaign results to construct a gains chart (see ¶ 0053). According to Applicant's

specification, gain charts simply track the performance of the models used over

marketing campaigns. The chart in Lee et al provides a visual representation of the

data (i.e., analyses of the campaigns).

As per claim 7, Lee et al do not explicitly disclose rank ordering user defined

segments. Thearling discloses selecting the order of models for selection (see

column 13, lines 35-41). Both Lee et al and Thearling are concerned with effective

campaign management and analysis, therefore it would have been obvious to one

having ordinary skill in the art at the time the invention was made to include rank

ordering the segments in the Lee et al, as seen in Thearling, thus allowing the user

to chose segments more likely to produce the desired campaign response, thereby increasing the accuracy of the Lee et al method.

As per claims 8 and 9, Lee et al do not explicitly disclose showing where the model works best, and where the model performance needs to be addressed. Thearling discloses allowing a user to specify a model to use in campaign analysis (i.e., where the model works best, see column 10, lines 20-25) and evaluation of model compute time (i.e., model performance, see column 11, lines 26-32). Both Lee et al and Thearling are concerned with effective campaign management and analysis, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include model performance analysis in Lee et al, as seen in Thearling, thereby effectively determining the robustness of a particular analysis.

As per claim 21, Lee et al disclose comparing the results of the marketing campaign against the marketing defined dimensions and the risk defined dimensions, and using the targeting engine to generate gains charts based on the comparison (see ¶ 0053). According to Applicant's specification, gain charts simply track the performance of the models used over marketing campaigns. The chart in Lee et al provides a visual representation of the data (i.e., analyses of the campaigns).

Claims 11, 13-20, and 24 are rejected based upon the rejections of claims 1-9, and 21 respectively, since they are the system claims corresponding to the method claims.

6.   Claims 22, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Lee et al (US 2002/0072951), in view of Thearling (USPN

6,240,411), as applied to claims 1 and 11 above.

As per claims 22 and 23, Lee et al does not disclose the marketing models

including a net present value/profitability model, a prospect pool model, a net

conversion model, an attrition model, a response model, a revolver model, a balance

transfer model, and a reactivation model; and the risk models including a payment

behavior prediction model, a delinquency model, a bad debt model, a fraud detection

model, a bankruptcy model, and a hit and run model. The Examiner previously

submitted Lazarus et al as discloses predicting consumer financial behavior,

including an account statistics table for ranking prospects (see column 35, lines 49-

55) and a credit risk score (see table 2). Applicant has amended to include all the

marketing and risk models to be embedded within the targeting engine. The

Examiner takes Official Notice that all of these types of marketing and risk models

are variations that could be implemented in any marketing analysis system.

Therefore it would have been obvious to one having ordinary skill in the art at the

time the invention was made to include specific marketing and risk models in Lee et

al thereby effectively determining the specific consumer attributes of interest.

Claims 25 and 26 are rejected based upon the rejections of claims 22 and 23

respectively, since they are the system claims corresponding to the method claims.

Response to Arguments

7.   In the Remarks, with respect to claims 1 and 11, Applicant argues that neither

Lee nor Thearling disclose embedding within the targeting engine a plurality of

analytical models including marketing and risk models; using the targeting engine to

determine a sequential order for combining the models; combining the models

embedded within the targeting engine in the determined sequential order to derive a

list of user defined dimensions for generating the marketing campaign, the user

defined dimensions include marketing defined dimensions and risk defined

dimensions.

The Examiner disagrees with Applicant's assertion and submits that, as seen in

the above rejection, Lee discloses campaign analysis including determining the

effectiveness of a campaign (¶ 0029 and 0033). Lee includes marketing analyses

models (¶ 0030), including customer analyses that target the most valuable

customers (i.e., ones of low risk and high return, ¶ 0039). Further, users of the Lee

system are able to analyze and present data in a variety of ways based upon which

pre-built marketing analyses are used (¶ 0029). Although the term "model" is not

explicitly stated in Lee, the analyses of Lee are indeed models.

The Examiner also submits that Thearling discloses using the targeting engine

to determine a sequential order for combining the models; combining the models

embedded within the targeting engine in the determined sequential order. In

Thearling, the campaign manager automatically selecting the order of the models for

analysis (see figure 11 and column 13, lines 38-41), as claimed in Applicant's amendment to the claims

Applicant also argues that the score in Thearling is not assigned to the results of the marketing campaign. The Examiner disagrees and submits that Thearling discloses scoring the model used to analyzed the campaign, thereby scoring the campaign (i.e, likelihood a customer will provide repeat business, see column 9, lines 48-52).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Lee discloses a method for collecting analyzing, and presenting data from a database. Thearling discloses classifying a plurality of records in a database. As seen in *In re Fine* and *In re Jones*, motivation may be found in the knowledge generally available to one of ordinary skill in the art. Here one of ordinary skill would be motivated to combine these two references concerned with effective campaign management and analysis.

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and

does not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209

(CCPA 1971).

With respect to claims 22, 23, 25, 26 the Applicant has amended to include all

the marketing and risk models to be embedded within the targeting engine. The

Examiner takes Official Notice that all of these types of marketing and risk models

are variations that could be implemented in any marketing analysis system.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

date of the advisory action. In no event, however, will the statutory period for reply

expire later than SIX MONTHS from the mailing date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andre Boyce whose telephone number is (703) 305-

1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number

for the organization where this application or proceeding is assigned is (703) 872-

9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703)

308-1113.

adb

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600